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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/471,101	12/21/1999	CHARLES H. REYNOLDS	CYBE.001US1	7011

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QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA, CA 94501

EXAMINER

HOLLOWAY III, EDWIN C

ART UNIT	PAPER NUMBER
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2635

DATE MAILED: 06/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/471,101

Applicant(s)

REYNOLDS, CHARLES H.

Examiner

Edwin C. Holloway, III

Art Unit

2635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-9,13,14,16,17,21-31 and 33-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-9,13,14,16,17,21-31 and 33-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

Examiner's Response

1. The examiner has considered presentation of claims and applicant's arguments in view of the disclosure and the present state of the prior art. And it is the examiner's opinion that the claims are unpatentable for the reasons set forth in this Office action:

INFORMATION DISCLOSURE STATEMENT

2. Applicant has not corrected the deficiencies in the 9-16-02 IDS. For determination of proper dates, applicant was mistakenly referred to the wayback machine at www.archive.com in the prior Office action. The correct web page for the wayback machine is at www.archive.org. The examiner apologizes for this error..

SPECIFICATION

3. The title of the invention is objected to because it should not include the word "improved." See MPEP 606. Correction is required.

4. Applicant is reminded to update the cross-reference to related applications to include the serial numbers, status, and patent numbers where applicable.

Double Patenting

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 1-3, 5-9, 13-14, 16-17, 21-32 and 33-37 are provisionally rejected under

the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-21 of copending Application No. 09/309321. Although the conflicting claims are not identical, they are not patentably distinct from each other because the limitations of "wherein said first socket is able to receive a standard network cable connector and able to receive a control signal transmitted over a wire of a network cable; said network cable also carrying network communication signals over separate data wires" in copending SN 09/309321 corresponds to the limitation of "a first network socket located on said distinguishable surface; wherein said first network socket is able to receive a standard network cable connector and able to receive a control signal transmitted on one wire of a network cable also carrying network data communication signals on one or more separate data wires" in the instant application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

ART REJECTION

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claims 1-3, 5-9, 13-14, 16-17 21-31 and 33-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over CHENG '174 (US 5644174) or PULIZZI (US 5923103) in combination with EEM 96 electronic engineers master catalog published by Hearst Business Communications, Inc. and Lord (US 5198806).

CHENG '174 discloses a universal AC sequencer for a server. The sequencer includes first control signal (input) socket 204, second control signal (pass thru output) socket 208, status indication LED's 216, switched power output sockets 130,140 controlled by control circuitry 250 including relays RLYM, RLY2. An IED AC input

socket is included for a detachable power line or cord. The power sockets and control in socket are shown on a different parallel sides in fig. 3, but a housing is not particularly discussed. See col. 1 lines 1-10, col. 2 line 1 - col. 6 line 55.

PULIZZI discloses a remote switched output power controller 10 including first control signal (input) sockets 142,160, second control signal (pass thru output) socket 144,162, status indication LED's 30, switched power output sockets 16 controlled by control circuitry 18 including relays 60-76. The power sockets and control in socket are shown on a different parallel side in fig. 1, but a housing is not particularly discussed. See col. 1 line 46 - col. 4 line 62, col. 5 line 48 - col. 7 line 65.

EEM 96 discloses rack mounted remote controlled power supplies such as the MPD-100R MPD-100 IEC including a 1 3/4 inch high box housing for mounting in 1 standard rack unit, remote on/off control sockets on front, IEC power input socket for detachable line or cord on rear and switched power output sockets on rear. The TPC 115-10 and TPC 115-10/MTD include the above features and indicator lights. The IPC 3202 includes all the above features except only a single input on the rear is shown. The satellite antenna lightning arrester system on page 2260 includes RJ45 phone/data sockets on a 1.75 inch rack mount unit. See pages 2260-2261, 2326-2329, 2340-2343, especially pages 2260 and 2341.

Lord discloses an analogous art remote power control system with a power control relay 220 connected to a line of a standard interface cable to control power via switch 220 without microprocessor decoding the signal. See fig. 3, col. 5 lines 1-11 and col. 6 line 53 - col. 7 line 35. Lord recites the advantages of simple and flexible in col. 2 lines 3-9.

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to have modified Cheng '174 or PULIZZI to include the housing limitations of EEM 96 because Cheng and PULIZZI refer to rack mount or stacked units, because EEM 96 discloses the claimed rack mount housing for analogous art remote controlled power supply including devices by PULIZZI and because it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included in the combination applied above power control signals communicated on a pin or wire of standard network socket(s) or cable(s) such as standard RS-232C connector or cable, while other pins or wires are passed through as disclosed in Lord and to have included circuitry turned on or off directly in response to the high/low state of a control signal received on one pin of a pair of sockets without decoding digital data received in the control signal in view of Lord disclosing power control relay 220 in order to allow power control of network devices with a simple and flexible circuitry.

The inclusion of multiple pairs of control sockets associated with one or more corresponding independently controlled power supply sockets would have been obvious in view of the various configurations shown in EEM 96 with multiple remote I/O connections associated with multiple switched power, because plural power supply sockets and corresponding network sockets was admitted as prior art on page 2 lines 1-12 of applicant's specification and because plurality of part for multiplied effect is well known to be obvious.. RJ-45 would have been obvious in view of the Lord disclosing use of any standard data communications interface and EEM 96 showing RJ-45 as a standard data communication interface on rack mounted components..

Response to Arguments

9. Applicant's arguments filed on 4-8-03 with respect to claims 1-3, 5-9, 13-14, 16-17, 21-31 and 33-37 have been considered but they are not persuasive.

Applicant's arguments are not persuasive because they repeat the arguments directed to the prior art in the 5-9-02 rejection, not the prior art applied in the 12-2-02 rejection and the current rejection. The arguments regarding the Chang patent are moot because the reference was removed from the rejections in the prior Office action. Applicant's arguments that the applied references lack the limitation of circuitry turned on or off directly in response to the high/low state of a control signal received at pin or wire of a the socket pair is not persuasive because this would have been obvious in view of Lord for the reasons discussed in the rejection made above. The modem of Lord is a separate network device corresponding to the network controller in the form of a router generating power control signals on page 3 lines 9-17 of applicant's disclosure.

Applicant's arguments directed to the individual patents with the exclusion of the Lord patent are not persuasive because one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Further, applicant's lack of argument directed to the Lord patent is interpreted as agreement that the rejection is proper.

The arguments referring to daisy chain or parallel connection are not persuasive in view of the connection of Lord corresponding to applicant's claimed manner of connection for the purpose of simple and flexible remote power control.

The argument that Cheng, EEM 96 and Pulizzi lack direct operative connection

between a signal line of standard network sockets and the relays is not persuasive in view of Lord. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the examiner has provided motivations such as allowing use in standard rack mount network systems and remote power control with simple and flexible circuitry as stated in the prior art rejections.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Server Technology, Inc. papers disclose a rack mount power unit with eight switched power outlets and 8 associated RJ12 or RJ45 port connectors..

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


CONTACT INFORMATION

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology center 2600 receptionist whose telephone number is **(703) 305-4700**.

Facsimile submissions may be sent via fax number (703) 872-9314 to customer service for entry by technical support staff. Questions regarding fax submissions should be directed to customer service voice line (703) 306-0377.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edwin C. Holloway, III whose telephone number is (703) 305-4818. The examiner can normally be reached on M-F (8:30:-5:00). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on (703) 305-4704.

EH
6/6/03


EDWIN C. HOLLOWAY, III
PRIMARY EXAMINER
ART UNIT 2635